

MEMORANDUM

TO: Tax Policy Committee
FROM: Carl F. Stafford
DATE: January 29, 2008
SUBJECT: HB 5455 and Land Bank Fast Track Act

The Land Bank Fast Track Act (2003 PA 258) empowers Land Banks with broad and significant powers. As stated in the preamble of the Land Bank Act, Land Banks were created to (among other purposes):

1. Facilitate the use and development of certain property;
2. Promote economic growth;
3. Provide for the distribution and use of revenues collected or received by a Land Bank Authority.

The powers of a Land Bank include (a) the development of property that it has acquired (MCL 124.755(2)(a)) and (b) the assembly of property for sale or lease to any public or private person (MCL 124.755(2)(b)).

The Land Bank Act expressly states that the property of Land Bank and its income and operations are exempt from all taxation by the State or any of its subdivisions (MCL 124.754(5)).

Act 189 (1953 PA 189), however, could be interpreted to apply to for-profit use of Land Bank property, thereby nullifying the property tax exemption clearly provided for in the Land Bank Act. HB 5455 prevents a back door method or "loop hole" to taxing Land Bank property. HB 5455 would exempt the user of Land Bank property from taxation under Act 189 for up to a 5 year period.

Tax exemption is a significant benefit granted to Land Banks and such tax exemption should not be nullified by the Land Bank exercising its powers to develop and lease property. In some cases tax exemption may be the required incentive for a company to undertake the development of property. The five year period should be sufficient time for a Land Bank and a

company to determine whether a project is feasible without the burden of real property taxation which, in some jurisdictions, can be significant.

We do not believe that the proposed 5 year tax exemption would be abused since the economic and tax benefits for owners of real property exceed those leasing property. Further, banks prefer that their customers own property which means that there will be substantial pressure from banks to have their customer obtain title to property from the Land Bank. In some cases, however, the initial leasing of property from a Land Bank may be the only viable option to get a development up and running and short term, true real property tax exemption may be the key to a successful development.